IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1373 OF 2000

1. Ashok Vasantrao Abhyankar]
residing at 3, Manohar Villa]
R.Chemburkar Road, Chembur,]
Mumbai 400071]
]
2. Pratapchand Bhuraji Kangtani]
Prop. of M/s. Mahavir Agency]
B-1, B-2, Bhavani Chambers,]
Bhavani Mandap, Kolhapur and]
having godown at Teluram Market]
Shop No.5 and 6, Gandhinagar]..Petitioners

Vs.

1. The State of Maharashtra]
]
2. Shri.S.A.Momin]
Drugs Inspector (IB) Kolhapur]
Food & Drug Administration]
M.S. 1861 E-Ward, Rajarampuri]
6th Lane, Kolhapur.]..Respondents

....

Mr.Moravoor Wamorkar i/b M/s. Moravoor Wamorkar & Co.
Advocate for Petitioners
Mr.A.S.Shitole A.P.P. for State
None for Respondent no.2 though served.

....

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE OF RESERVING
THE JUDGMENT : 20.9.2004

DATE OF PRONOUNCING
THE JUDGMENT : 4.10.2004

ORAL JUDGMENT:

1. This petition has been preferred by the petitioners (original accused) for quashing of Criminal Case No. 20 of 1981 and Criminal Case No.

354 of 1982 pending before the learned Chief Judicial Magistrate, Kolhapur. The petitioner no.1 is the accused no.1 in C.C.No. 20 of 1981 and the other accused in the said case is Vaman Mahuli (since deceased). Petitioners no. 1 and 2 are accused nos.1 and 2 in C.C.No. 354 of 1982. Vaman Mahuli (since deceased) was accused no.3 in the said case. Both the cases pertain to the same set of facts.

2. The petitioner no.1 Ashok Vasantrao Abhyankar was an employee of M/s. Boehringer Knoll Ltd. M/s. Boehringer Knoll Ltd. had the requisite licences for manufacture and distribution of the drugs in question. At the relevant time, he was working as a Medical Representative of the said company at Kolhapur Branch office. As the Medical Representative, the petitioner no.1 was required to visit doctors in the vicinity in order to represent the products of the company and to keep the doctors informed about the availability of the drugs/medicines. Similarly, the petitioner no.1 was required to promote better co-ordination between Company and its stockists and the retail sellers of the drugs.

3. Petitioner no.2 Pratapchand Bhuraji Kangtani was

the wholesale dealer and stockist of M/s. Boehringer Knoll company’s products at the relevant time. He was holding valid licence issued by the licensing authority appointed under the Drugs and Cosmetics Act, 1940 (hereinafter referred to as "the said Act") for stocking, selling and distributing the drugs. The petitioner no.2 was doing the said business at Kolhapur in the name and style of Mahavir Agency situated at Bhavani Chambers at Kolhapur. Petitioner no.2 was the proprietor of the said agency.

4. Original accused Vaman Mahuli (since deceased) was engaged in business of transport and his vehicle i.e.MHM/7715 converted to MHL/7233 had been hired to transport the medicines/drugs in question and the medicines/drugs were found stored in his premises without licence.

5. It is the prosecution case that on 23rd March, 1978 the Drug Inspector (Intelligence Branch, Kolhapur) paid a surprise visit to the residence of Mr.Vaman Shrinivas Mahuli-original accused no.3 in C.C.No. 354 of 1982 and original accused no.2 in C.C.No. 20 of 1981. The said residence was situated at 1457, ‘C’ Ward, Laxmipuri, 4th block, Kolhapur. The Drug Inspector observed that Vaman

Mahuli had stored large stocks of drugs manufactured by M/s. Boehringer Knoll Ltd. in his residential premises. Shri.Vaman Shrinivas Mahuli did not possess licence to store, stock or deal with the said drugs which were found in his residential premises. As Shri.Abhyankar (petitioner no.1) was distributing the drugs and storing the same at the residential premises of Shri.Vaman Mahuli who did not possess a licence under the Drugs and Cosmetics Act, 1940 for stocking, distributing or sale of the drugs at the above premises, thus, a complaint came to be lodged at Laxmipuri police station on 3rd May, 1978 by the Drugs Inspector Shri.Momin against the petitioner no.1 and Shri.Vaman Mahuli. The said complaint is under Section 18(c) and 27 of the Drugs and Cosmetics Act, 1940. The said complaint came to be numbered as C.C.No. 20 of 1981. In the said complaint only petitioner no.1 Shri.Abhyankar and Shri.Vaman Mahuli were shown as accused.

6. Thereafter, based on the same facts, private complaint came to be filed i.e. C.C.No. 354 of 1982 by Shri.S.A.Momin, Drug Inspector in the court of Chief Judicial Magistrate at Kolhapur. The said complaint was under Section 18(c) read with Section 27 of the Drugs and Cosmetics Act, 1940 read with section 114 of the IPC. In the said complaint,

petitioner nos.1 and 2 and Vaman Mahuli were shown as accused.

7. Shri.Moravoor Wamorkar, the learned advocate for the petitioners has submitted that the offence in question pertains to the year 1978 and today more than 26 years have passed since the incident took place. He has further submitted that there is gross delay in proceeding with the trial of the said case and the said delay cannot be said to be attributable to the petitioners. Moreover, he has submitted that the residential premises wherein the medicines were stored, were the residential premises of original accused Vaman Mahuli who has long since expired. Thus, he has submitted that in these circumstances, the two cases deserve to be quashed.

8. On behalf of the petitioners, it is further submitted that both M/s. Boehringer Knoll Ltd. and the petitioner no.2 Shri.Kangtani had the requisite licences. Mahavir Agencies of which Shri.Kangtani was the proprietor, had the necessary licences for stocking, selling and distributing the drugs. So also Boheringer Knoll had the necessary licences for manufacturing and distributing the said drugs. Shri.Abhayankar was the medical representative of M/s. Boehringer Knoll Ltd. and thus, any activity done by him in relation to the drugs of M/s.

Boehringer Knoll Ltd. being the representative of M/s. Boehringer Knoll Ltd., it would mean that he could deal with the drugs. Thus, it was submitted that as petitioner no.2 and M/s. Boehringer Knoll Ltd. had the necessary licences, no offence could be said to be made out against both the petitioners.

9. It may be stated here that all the necessary licences were produced for the perusal of the Court. The learned A.P.P. has gone through the said licences and on instructions, he has admitted the genuineness of the same. However, the learned A.P.P. has submitted that though the petitioner no.2 may have the requisite licence for stocking, selling and distributing the drugs, the licence in respect of storing of the drugs pertained to premises at Bhavani Chambers, Bhavani Mandap at Kolhapur and at shop nos.5 and 6 in Teluram Market, Gandhinagar, Kolhapur, however, in the present case, the drugs were stored in the premises of Vaman Mahuli and there was no licence owned by any of the petitioners or Vaman Mahuli to store the drugs in question at the residence of Vaman Mahuli at Laxmipuri, Kolhapur.

10. The petitioners had earlier preferred an application for discharge before the learned Magistrate, however, the said application came to be

rejected by order dated 13th July, 2000. Thereafter, the present writ petition has been preferred. Shri.Wamorkar, the learned advocate for the petitioners has submitted that the application for discharge had been preferred on the ground that though the case was instituted long back, however, in the last about 20 years, no significant progress could be made in the trial and the delay could not be said to be attributable to the petitioners-accused. The petitioners-accused remained present on all the dates and made themselves available for the purpose of conducting the trial. However, despite this fact, there had been no significant progress in the trial for the last 20 years. Shri.Wamorkar has submitted that the learned Magistrate has rejected the discharge application on an erroneous ground which is reflected in para no.4 of his order. The said ground was that "on 4th March, 1991, the matter was adjourned for calling some documents from another case. Then the ‘accused’ also filed Criminal Revision Application No. 46 of 1992 in Hon’ble Sessions Court and it was decided on 11-8-1997 and hence, the said case was pending in the Sessions Court till 11th August, 1997. Then again the accused has filed application in the High Court in the year 1998 on various grounds, however, the

charge is yet to be framed. The High Court passed an order directing the court to hear the accused before the stage of framing of charge." The learned Magistrate has further observed that "considering the facts and circumstances in the two cases, it appears that the proceedings relating to the case were not delayed due to the prosecution." He has further observed that in the present case, it seems that delay has been caused on the part of accused in preferring applications before Sessions Court and the High Court.

11. I have perused the record pertaining to the present case and I find that criminal revision application no.46 of 1992 was not preferred by any of the accused but it was preferred by the State and hence, the observations made by the learned Magistrate that delay from 1992 to 1997 was attributable to the accused, is totally erroneous.

12. In the present case, relating to the very same incident earlier, an FIR came to be lodged and lateron, a private complaint came to be filed. Thereafter, an application came to be preferred by the prosecution for clubbing both the private case and the police case for the purpose of trial. The learned Magistrate by order dated 5th October, 1983

directed that both the cases be clubbed together for the purpose of trial. However, thereafter on 11th July, 1985, the learned Magistrate observed that in view of Section 32 of the Drugs and Cosmetics Act, both the cases could not be clubbed together hence, he directed that the trial in both the cases shall proceed separately. Thereafter, there was no progress in the trial uptil 1992 i.e. for a period of seven years. During all this time, the petitioners-accused attended the Court and they were ready to go on with the trial. Suddenly in 1992, after a gap of seven years, the prosecution filed a revision application in the Sessions Court against the order of the learned Magistrate dated 11th July, 1985 by which the learned Magistrate directed the trial in both the cases to proceed separately. The said revision was decided on 11th August, 1997. The revision was allowed and the learned Sessions Judge directed that both the cases be amalgamated. The learned Sessions Judge further observed that since the proceedings are pending since long, the learned Magistrate is requested to dispose of the proceedings within a period of four months as far as possible. In this period of four months also the petitioners were very much available to the Court for trial. They attended the Court on all dates. Though the petitioners were infact ready and willing

to go on with the trial, however, there was no progress in the case. Thereafter, in September, 1998, the petitioners preferred Criminal Application No. 2730 of 1998 before this Court inter alia stating therein that even after 19 years have passed, the trial has yet not begun and hence, the proceedings may be quashed. The said application came to be disposed of on 9th October, 1998 stating therein that the learned Magistrate shall hear the accused at the stage of framing of charge. Thereafter, the petitioners preferred application for discharge before the learned Magistrate which came to be rejected by order dated 13th July, 2000. Thereafter, the present writ petition has been filed.

13. As already observed by me earlier, the said application for discharge came to be rejected on erroneous ground by the learned Magistrate. It is pertinent to note that in the present case no affidavit in reply has been filed by the respondents. From the record of the case, it does appear that both the petitioners were present on all the dates right from the beginning till 2000 when the present petition was filed. The delay in the present case cannot be said to be attributable to the petitioners-accused. Though the respondents

have filed criminal revision application no. 46 of 1992 before the Sessions Court, it was directed against the order of the learned Magistrate dated 11th July, 1985. No explanation at all has been given by the prosecution as to why for seven long years no steps were taken by them to challenge the order dated 11th July, 1985 passed by the learned Magistrate. In the said period, they have also not proceeded with the trial. Even after the learned Sessions Judge's order dated 11th August, 1997 directing that the trial was to be disposed of within four months, no steps were taken by the prosecution to proceed with the trial in the said case. In the present case, the delay can be said to be attributable only to the respondent-State. The said delay was totally unwarranted. This inordinate delay of almost 26 years on the part of the State, can be said to be such that it is oppressive and totally unwarranted.

14. Mr.Wamorkar, the learned advocate for the petitioners has placed reliance on various decisions wherein the proceedings were quashed on the ground of delay. The said decisions are **(1) 2000 Cri.L.J. 1962 (Prabhu and another Vs. State of Rajasthan), (2) 2000 Cri.L.J. 3546 (Meghraj Vs. State of Rajasthan), (3) 2000 Cri.L.J. 3599 (Madanlal Vs.**

State of Rajasthan) and (4) 2000 Cri.L.J. 3408 (Kishan Vs. State of Rajasthan). In the said cases, the trial had been delayed for no fault of the accused for various periods ranging from 10 to 20 years. It was observed in the said cases that accused has suffered a lot by way of mental agony and also financially and there was violation of the principles of natural justice of speedy trial and hence the proceedings against the accused came to be quashed.

15. On the other hand, Mr.A.S.Shitole, the learned A.P.P. appearing for the State, has placed reliance on the case of **Jagdish Ram Vs. State of Rajasthan reported in (2004) 4 S.C.C. 432,** wherein though there was a delay of 19 years, the prosecution was not quashed. However, in the present case, the delay is much longer i.e. 26 years and that too for no fault on the part of the accused.

. In the case of **Abdul Rehman Antulay etc. etc. Vs. R.S.Naik, reported in AIR 1992 Supreme Court, 1701,** the Apex Court has observed in para 51 as under:

. "Wherever a complaint of infringement of right to speedy trial is made the

> Court has to consider all the circumstances of the case including those mentioned above and arrive at a decision whether in fact the proceedings have been pending for an unjustifiably long period. In many cases, the accused may himself have been responsible for the delay. In such cases, he cannot be allowed to take advantage of his own wrong. In some cases, delays may occur for which neither the prosecution nor the accused can be blamed but the system itself. Such delays too cannot be treated as unjustifiable-- broadly speaking. Of course, if it is a minor offence-- not being an economic offence-- and the delay is too long, not caused by the accused, different considerations may arise. Each case must be left to be decided on its own facts having regard to the principles enunciated hereinafter. For all the above reasons, we are of the opinion that it is neither advisable nor feasible to draw or prescribe an outer time limit for conclusion of all criminal proceedings."

. In the present case, it is clear that the petitioners-accused are not at all responsible for the delay but it is the prosecution which is mainly responsible for the delay. There is no explanation by the prosecution for the delay. Moreover, the offence in question is not an economic offence. It is nobody’s case that the drugs were adulterated or misbranded. In fact, many of the drugs were samples. There is nothing on record to show that any special conditions were required for storing the drugs, in such case, the offence can be said to be

minor in nature hence, it is a fit case for quashing the prosecution.

16. Even otherwise, looking to the facts of the case in hand and on considering the merits of the case, it is seen that M/s. Boehringer Knoll Ltd. as well as petitioner no.2 had the requisite licences. Petitioner no.2 had the licences to stock, sell and distribute the drugs/medicines of Boehringer Knoll Ltd. and Boehringer Knoll Ltd. had the licences for manufacture and distribution of the drugs in question. The other reason cited by the learned Magistrate for rejecting the discharge application of the petitioners is that there is no licence on record. I have already observed earlier that the licences have been produced before this Court. It is nobody's case that the drugs were spurious or adulterated drugs or that they were misbranded. The said drugs were genuine drugs and most of the drugs were in the nature of samples. So also there are statements of witnesses recorded by the prosecution itself during the investigation which are worth noting.

17. The first statement is that of Shri.Suresh Shripatrao Jadhav the driver of the vehicle in question i.e. Truck No. MHM/7715. Suresh Jadhav

has stated that he was told on 19.3.1978 by his employer Vaman Mahuli to take the said vehicle on that day and take one Mr.Abhyankar in his vehicle. Abhyankar told him to take the vehicle to the godown of Petitioner no.2 and to get the goods loaded in the truck. Suresh Jadhav was further directed by Abhyankar that thereafter the said truck be parked infront of the house of Mr.Mahuli during the night as on the next day they wanted to go out of station early in the morning. On 19th March, 1978 in the evening, the goods from the godown of petitioner no.2 were loaded into this vehicle as per two chalans i.e. chalan nos. 2663 and 2664. Thereafter Suresh Jadhav took the said vehicle and parked it infront of the house of Mr.Mahuli. On the next day i.e. on 20th March, 1978, he took the said vehicle and went to the house of Abhyankar. He took Abhyankar in the vehicle and visited various places i.e. village Kapasi and Gargoti as per the instructions of Mr.Abhyankar. Mr.Abhyankar distributed the medicines at the said places and on the same night at about 9 p.m. they returned back to Kolhapur and he left Abhyankar at his residence and thereafter left the truck infront of house of Mr.Mahuli. At that time, some medicines were in the said truck. On 21st March, 1978, again they went to various places. However, during the travel, the

said vehicle developed some pick-up problem and hence, he parked the vehicle in front of the house of Mr.Mahuli in the night at 10 to 10.30 p.m. and he told his master Mr.Mahuli that the vehicle would have to be shown to the repairman and thereafter, he went away. At that time, the medicines remained in the vehicle. On 22nd March, 1978 in the morning he was told to take the vehicle for repairs. As the vehicle was to be taken for repairs, and it would not be safe to take the medicines in the truck when it was taken for repairs hence, the medicines were unloaded from the vehicle and kept in the house of Vaman Mahuli and thereafter, the vehicle was taken for repairs to the work-shop.

18. The papers pertaining to the investigation of this case show that the vehicle was sent for repairs on 22nd March, 1978 and it remained in the Garage on 23rd March, 1978 and on 24th March, 1978 after being repaired, the vehicle was taken back. The statement of the owner of the Garage i.e. Mr.Nisar Hasan Saheb Killedar which has been recorded by the prosecution, bears out the said fact.

19. It is on 23rd March, 1978, that the complainant Drug Inspector visited the premises of Vaman Mahuli and found the medicines stored in his residential

premises above the cup-board. It is to be noted that there is nothing on record to show that the medicines were required to be stored in any special conditions.

20. Mr.Wamorkar, the learned advocate for the petitioners has placed reliance on the decision in the case of **Mohd. Shabbir Vs. State of Maharashtra reported in (1979) 1 S.C.C. 568.** In the said case, it was held that Section 27(a)(i) and (ii) read with Section 18(c) do not cover mere possession of any drug and no conviction can be based on possession. It was further observed therein that "Section 27 postulates three separate categories of cases and no other: (1) manufacture for sale; (2) actual sale; (3) stocking or exhibiting for sale or distribution of any drugs. The absence of any comma after the word "stocks" clearly indicates that the clause "stocks or exhibits for sale" is one indivisible whole and it contemplates not merely stocking the drugs but stocking the drugs for the purpose of sale and unless all the ingredients of this category are satisfied, Section 27 of the Act would not be attracted". In the present case, the goods were kept in the residential premises of Vaman Mahuli on top of the cupboard and as such, it cannot be said that they were stocked for the purpose of sale.

Thus, no offence can be said to be made out.

21. It may be stated here that the company Boehringer Knoll has closed down long back. So also Vaman Mahuli has long since expired and the case against him is abated. It was Vaman Mahuli who had directed the driver of the vehicle to unload the medicines and keep the same in his house when the vehicle was to be taken for repairs. Looking to the material gathered by the prosecution it cannot be said that conduct of Vaman Mahuli was unnatural or that he had any *mens rea.* When the vehicle was parked infront of his house, and vehicle had to be taken for repairs, it was quite natural to unload the medicines and keep the same at his residence i.e. residence of Vaman Mahuli. It is true that the medicines ought to have been sent back to M/s. Mahavir Agency on 22nd March, 1978 in the morning instead of being kept in the house of Vaman Mahuli. However, Vaman Mahuli might have been under the impression that the vehicle could be repaired in a short span of time and thereafter, the material would be loaded back in the vehicle and it would then be delivered to the proper places. It is pertinent to note that in the period from the night of 22nd March, 1978 upto 23rd March, 1978 when the raid took place, there is no material with the

prosecution to show that the said medicines were being distributed or sold. Moreover, there is nothing to show that Vaman Mahuli had done this act of storing the medicines at his premises at the behest of either of the petitioners.

22. The additional charge is being faced by the petitioners that the petitioner no.2 had handed over the medicines to the petitioner no.1 for distributing the same. In this connection, the papers relating to the investigation of this case, show that the petitioner no.1 was to visit various places as the medical representative of M/s. Boehringer Knoll. He had engaged a vehicle for the purpose. As petitioner no.2 had also to deliver some medicines at some of these places, a request was made by the petitioner no.2 to petitioner no.1 that the medicines may be taken in the same vehicle. It is pertinent to note that petitioner no.2 had licence for stocking, selling and distributing the drugs. From the provisions of Section 62D, it is clear that a licence shall not be required in a case where a public carrier or a hired vehicle is used for transportation or distribution of drug. It is nobody’s case that the medicines were belonging to any other company but Boehringer Knoll. M/s. Boehringer Knoll also had all the necessary

requisite licences. It is an admitted fact that petitioner no.1 Mr.Abhyankar was the Medical Representative of M/s. Boehringer Knoll Ltd. and he was doing the work of promoting the sales and distributing of drugs. Part of his duty was to promote better coordination between the company and its stockists and the retail sellers of the drugs. It is also an admitted fact that petitioner no.2 was the licensed stockist and wholesale dealer of stocks of drugs of M/s. Boehringer Knoll Ltd. In view of the provisions of Section 62D of the Act, it is clear that when the vehicle was hired for transporting or distributing the drugs, a licence would not be required. It is not necessary that the licence holder has to accompany the drugs in question or that he has to be present in the vehicle. Thus, when Mr.Abhyankar who was the Medical Representative of M/s. Boehringer Knoll Ltd. was in the vehicle, it could be said that he was in the vehicle in his capacity as a representative of M/s. Boehringer Knoll Ltd. whose job was promoting the sale and distributing the drugs or that he was requested by petitioner no.2 to deliver the goods to a particular destination. In both these cases, a separate licence would not be necessary for petitioner no.1. Thus, it cannot be said that any offence is made out against the

petitioner no.1 or petitioner no.2.

23. In any event, in the present case, it is seen that more than 26 years have passed since the offence in question took place. The delay cannot be said to be attributable to the petitioners-accused in fact, the delay is wholly attributable to the prosecution. The prosecution has not given any explanation for the delay of seven years in challenging the orders of the Magistrate dated 11th July, 1985. Even thereafter despite the directions of the learned Sessions Judge to complete the trial in about four months, no progress was made by the prosecution for over one year. For a period of over 20 years, the petitioners have been diligently attending on all the dates before the trial court and they were ready to go on with the trial. In these 26 years, the petitioners have suffered a lot mentally, physically and financially by attending the Court for such a long period of over two decades. Moreover, the main accused in whose residence the medicines were found stocked i.e. Vaman Mahuli has long since expired, there was no material on record to show that Vaman Mahuli stored the medicines in his residential premises at the instance of any of the petitioners. It is also nobody’s case that the drugs in question were

spurious or were adulterated or misbranded. In such case, looking to the fact that more than 26 years have passed and there is no significant progress in the trial due to no fault on the part of the petitioners, I entirely agree with the submission made by the learned Advocate for the petitioners that there is no justification now in allowing the prosecution of the petitioners. Looking to all the facts of the case, I do not think that it would be in the interest of justice to continue the prosecution. Hence, proceedings relating to the said two cases are hereby quashed. Petition is allowed in the above terms. Rule is made absolute.

. Authenticated copy of this judgment be supplied to the parties.

[V.K.TAHILRAMANI,J.]

. 18. Prohibition of manufacture and sale of certain drugs and cosmetics,-- From such date as may be fixed by the State Government by notification in the Official Gazette in this behalf, no person shall himself or by any other person on his behalf--

(a) ...
(b) ...

(c) manufacture for sale, or sell, or stock or exhibit for sale, or distribute any drug or cosmetic, except under, and in accordance with the conditions of, a licence issued for such purpose under this Chapter:

. Provided that nothing in this section shall apply to the manufacture, subject to prescribed condition of small quantities of any drug for the purpose of examination, test or analysis:

. Provided further that the Central Government may, after consultation with the Board, by notification in the Official Gazette, permit, subject to any conditions specified in the notification, the manufacture for the sale or distribution of any drug or class of drugs not being of standard quality.

. Explanation,-- The formula or list of ingredients mentioned in a clause (Viii) of clause (a) shall be deemed to be true and a sufficient compliance with that sub-clause if, without disclosing a full and detailed recipe of the ingredients, it indicates correctly all the potent or poisonous substances contained therein together with an approximate statement of the composition of the medicine."

. 19(3) A person, not being the manufacturer of a drug or cosmetic or his agent for the distribution thereof, shall not be liable for a contravention of Section 18 if he proves--

. (a) that he acquired the drug or cosmetic from a duly licensed manufacturer, distributor or dealer thereof;

. (b) that he did not know and could not, with reasonable diligence, have ascertained that the drug or cosmetic in any way contravened the provisions of that section; and

. (c) that the drug or cosmetic, while in his possession, was properly stored and remained in the same state as when he acquired it.]"

. 27. Penalty for manufacture, sale, etc. of drugs in contravention of this Chapter-- Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks, or exhibits for sale or distributes--

. (a) any drug--
(i) ...

. (ii) without a valid licence as required under clause (c) of Section 18,

. shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years and shall also be liable to fine:

. Provided that the Court may for any special reasons to be recorded in writing, impose a sentence of imprisonment of less than one year;"

. "62D. Form of licenses to sell drugs by wholesale or distribute drugs from a motor vehicles:--

. A licence shall be issued for sale by wholesale or for distribution from a motor vehicle of drugs other than those specified in Schedule and Schedule C(1) in Form 20BB and of drugs specified in Schedule C and Schedule (c)(1) in Form 21BB:

. Provided that such a licence shall not be required in a case where a public carrier or a hired vehicle is used for

transportation or distribution of drug."